

110TH CONGRESS  
1ST SESSION

# H. R. 1486

To amend the Elementary and Secondary Education Act of 1965 to provide parental choice for those students that attend schools that are in need of improvement and have been identified for restructuring.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2007

Mr. McKEON (for himself, Mr. BOEHNER, Mr. WILSON of South Carolina, Mr. EHLERS, Mr. SOUDER, Mr. WALBERG, Mr. MARCHANT, Mr. SAM JOHNSON of Texas, Mr. SHAYS, Mr. FORTUÑO, Mr. DAVID DAVIS of Tennessee, Mr. KLINE of Minnesota, and Ms. FOXX) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To amend the Elementary and Secondary Education Act of 1965 to provide parental choice for those students that attend schools that are in need of improvement and have been identified for restructuring.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Empowering Parents  
5       Through Choice Act”.

1 **SEC. 2. PURPOSE.**

2 It is the purpose of this Act to support State and  
3 local efforts to enable students from low-income families  
4 who attend a school identified for restructuring under sec-  
5 tion 1116(b)(8) of the Elementary and Secondary Edu-  
6 cation Act of 1965 (20 U.S.C. 6316(b)(8))—

7 (1) to attend a private elementary school or sec-  
8 ondary school, or a public elementary school or sec-  
9 ondary school outside the student’s home school dis-  
10 trict, including a public charter school; or

11 (2) to receive intensive, sustained supplemental  
12 educational services.

13 **SEC. 3. PROMISE SCHOLARSHIPS FOR PARENTS AND STU-**  
14 **DENTS.**

15 Section 1116(b)(8) of that Act (20 U.S.C.  
16 6316(b)(8)) is amended—

17 (1) in subparagraph (A)—

18 (A) in clause (ii) by striking “and” at the  
19 end;

20 (B) by redesignating clause (iii) as clause  
21 (iv); and

22 (C) by inserting after clause (ii) the fol-  
23 lowing:

24 “(iii) make scholarships available to  
25 students to attend a private elementary or

1 secondary school chosen by the student's  
2 parents; and”;

3 (2) by redesignating subparagraph (C) as sub-  
4 paragraph (F); and

5 (3) by inserting after subparagraph (B) the fol-  
6 lowing:

7 “(C) SPECIAL RULE FOR PRIVATE SCHOOL  
8 CHOICE.—If a local education agency imple-  
9 ments subparagraph (A)(iii), it shall—

10 “(i) apply fair and equitable proce-  
11 dures for awarding scholarships under that  
12 subparagraph when the number of appli-  
13 cants exceeds available funding, which  
14 must include giving priority to students  
15 whose schools are in the second or a later  
16 year of restructuring under section  
17 1116(b)(8);

18 “(ii) make scholarship payments to  
19 the parents of the students, in a manner  
20 that ensures that those payments are used  
21 only for the payment of tuition, fees, and  
22 necessary transportation expenses, in ac-  
23 cordance with this section;

24 “(iii) ensure that the amount a stu-  
25 dent receives under such a scholarship for

1 an academic year, together with any funds  
2 the student receives under section 1116(e)  
3 for that academic year—

4 “(I) does not exceed \$4,000; and

5 “(II) does not exceed the costs,  
6 including necessary transportation  
7 and other expenses, to attend the pri-  
8 vate elementary or secondary school;

9 “(iv) if a student uses such a scholar-  
10 ship, continue to provide such a scholar-  
11 ship to that student for each academic  
12 year thereafter until the student completes  
13 the grade that is the final grade taught at  
14 the school that the student attended before  
15 using the scholarship;

16 “(v) assess that student in reading or  
17 language arts, mathematics, and science  
18 (at the grade levels specified in section  
19 1111(b)(3)(C)) by using the State assess-  
20 ments administered under section  
21 1111(b)(3), and include the student’s  
22 scores on those assessments in its annual  
23 report cards under section 1111(h)(2) and  
24 in determining whether the school and

1 local educational agency made adequate  
2 yearly progress under section 1111;

3 “(vi) separately display, for the local  
4 educational agency as a whole, the assess-  
5 ment results for students using the schol-  
6 arships in its annual report cards under  
7 section 1111(h)(2), except where doing so  
8 would reveal personally identifiable infor-  
9 mation about an individual student.

10 “(D) SPECIAL RULE FOR PRIVATE  
11 SCHOOLS.—A private elementary or secondary  
12 school that enrolls a student who is using a  
13 scholarship under subparagraph (A)(iii) shall—

14 “(i) assess that student in reading or  
15 language arts, mathematics, and science  
16 (at the grade levels specified in section  
17 1111(b)(3)(C)) by using either the State  
18 assessments administered under section  
19 1111(b)(3) or nationally normed assess-  
20 ments; and

21 “(ii) provide the results of those as-  
22 sessments to the local educational agency  
23 that made the scholarship available.

24 “(E) NONDISCRIMINATION.—

1           “(i) IN GENERAL.—A local edu-  
2           cational agency or private elementary or  
3           secondary school participating in any pro-  
4           gram under subparagraph (A)(iii) shall not  
5           discriminate against participants or appli-  
6           cants on the basis of race, color, national  
7           origin, religion, or sex.

8           “(ii) RELIGIOUS TENETS OR BELIEFS  
9           WITH RESPECT TO SEX.—The prohibition  
10          of sex discrimination in clause (i) does not  
11          apply to a participating school that is oper-  
12          ated by, supervised by, controlled by, or  
13          connected to a religious organization to the  
14          extent that the application of that prohibi-  
15          tion is inconsistent with the religious te-  
16          nets or beliefs of the school.

17          “(iii) SINGLE-SEX EDUCATION.—Not-  
18          withstanding the prohibition of sex dis-  
19          crimination in clause (i), a participating  
20          school may offer, and a participating par-  
21          ent may choose, a single-sex school, class,  
22          or activity.

23          “(iv) NEUTRALITY.—Section 909 of  
24          the Education Amendments of 1972 (20

1 U.S.C. 1688) shall apply to a program  
2 under subparagraph (A)(iii).

3 “(v) CHILDREN WITH DISABILITIES.—  
4 Subparagraphs (C), (D), and (E) do not  
5 affect any requirement of the Individuals  
6 with Disabilities Education Act (20 U.S.C.  
7 1400 et seq.).

8 “(vi) MATTERS OF EMPLOYMENT.—  
9 Notwithstanding clause (i), a private ele-  
10 mentary or secondary school participating  
11 in any program under subparagraph  
12 (A)(iii) that is operated by, supervised by,  
13 controlled by, or connected to a religious  
14 organization may exercise its right in mat-  
15 ters of employment consistent with title  
16 VII of the Civil Rights Act of 1964 (42  
17 U.S.C. 2000e–1 et seq.), including the ex-  
18 emptions in that title.

19 “(vii) FIRST AMENDMENT.—Con-  
20 sistent with the First Amendment to the  
21 Constitution of the United States, a par-  
22 ticipating school shall not, by reason of re-  
23 ceiving funds under a program under sub-  
24 paragraph (A)(iii), be required to—

25 “(I) change its teaching mission;

1 “(II) remove religious art, icons,  
2 scriptures, or other symbols;

3 “(III) remove religious terms or  
4 references from its name, mission  
5 statement, or other chartering or gov-  
6 erning documents; or

7 “(IV) refrain from using religion  
8 as a basis in selecting its board mem-  
9 bers.”.

10 **SEC. 4. OPPORTUNITY SCHOLARSHIPS FOR PARENTS AND**  
11 **STUDENTS.**

12 Part B of title I of the Elementary and Secondary  
13 Education Act of 1965 is amended by adding at the end  
14 the following:

15 **“Subpart 5—Opportunity Scholarships for Parents**  
16 **and Students**

17 **“SEC. 1261. DEFINITIONS.**

18 “In this subpart:

19 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-  
20 tity’ means—

21 “(A) a local educational agency;

22 “(B) a State educational agency; or

23 “(C) a nonprofit organization or a consor-  
24 tium of nonprofit organizations.



1           “(2) ELIGIBLE STUDENT.—The term ‘eligible  
2           student’ means a student from a low-income family  
3           who—

4                   “(A) with respect to a school identified for  
5           restructuring under section 1116(b)(8)—

6                           “(i) is eligible to enroll in the begin-  
7                   ning grade of the school;

8                           “(ii) except as provided in subpara-  
9                   graph (C), attended the school for the en-  
10                  tire school year preceding the identifica-  
11                  tion;

12                          “(iii) in the case of a student who  
13                  transfers to the school to attend any grade  
14                  beyond the beginning grade of the school,  
15                  attends the school for the remainder of the  
16                  school year in which the transfer occurs; or

17                          “(iv) received a scholarship under this  
18                  subpart in a preceding school year due to  
19                  such identification; or

20                          “(B) is a sibling of a student described in  
21                  any 1 of clauses (i) through (iv) of subpara-  
22                  graph (A).

23           “(3) LOW-INCOME FAMILY.—The term ‘low-in-  
24           come family’ means a family whose income does not  
25           exceed 185 percent of the poverty line, except that

1 in the case of a student participating in a project  
 2 under this subpart for a second or any succeeding  
 3 school year the term includes a family whose income  
 4 does not exceed 220 percent of the poverty line.

5 “(4) POVERTY LINE.—The term ‘poverty line’  
 6 means the income official poverty line (as defined by  
 7 the Office of Management and Budget, and revised  
 8 annually in accordance with section 673(2) of the  
 9 Community Services Block Grant Act (42 U.S.C.  
 10 9902(2)) applicable to a family of the size involved.

11 “(5) PRIVATE PROVIDER.—The term ‘private  
 12 provider’ means a nonprofit or for-profit private pro-  
 13 vider of supplemental educational services described  
 14 in section 1116(e)(1) that is on the updated list of  
 15 approved providers maintained by the State edu-  
 16 cational agency under section 1116(e)(4)(C).

17 “(6) SUPPLEMENTAL EDUCATIONAL SERV-  
 18 ICES.—The term ‘supplemental educational services’  
 19 has the meaning given the term in section  
 20 1116(e)(12)(C).

21 **“SEC. 1262. PROGRAM AUTHORIZED.**

22 “(a) AUTHORITY.—

23 “(1) IN GENERAL.—Subject to paragraph (2)  
 24 and from amounts appropriated under section 1264  
 25 for a fiscal year, the Secretary shall award grants,

1 on a competitive basis, to eligible entities to support  
2 projects that provide—

3 “(A) scholarships to enable eligible stu-  
4 dents to attend—

5 “(i) the private elementary school or  
6 secondary school of their parent’s choice;  
7 or

8 “(ii) a public elementary school or  
9 secondary school of their parents’ choice  
10 outside of the eligible student’s home  
11 school district, consistent with State law;  
12 or

13 “(B) eligible students with intensive, sus-  
14 tained supplemental educational services on an  
15 annual basis.

16 “(2) SCHOLARSHIP DURATION RULE.—Each eli-  
17 gible entity that receives a grant under this subpart  
18 shall award a scholarship under this subpart only to  
19 an eligible student for—

20 “(A)(i) in the case of an eligible student  
21 described in section 1261(2)(A), the first school  
22 year for which the eligible student is eligible to  
23 receive the scholarship with respect to a school  
24 identified for restructuring under section  
25 1116(b)(8); and

1           “(ii) in the case of an eligible student de-  
2           scribed in section 1261(2)(B), the first school  
3           year taught at the school so identified; and

4           “(B) each subsequent school year through  
5           the school year applicable to the final grade  
6           taught at the school so identified.

7           “(b) DURATION OF GRANTS.—The Secretary may  
8           award grants under this subpart for a period of not more  
9           than 5 years.

10          “(c) PRIORITIES.—In awarding grants under this  
11          subpart, the Secretary shall give priority to eligible entities  
12          that—

13               “(1) make scholarships available to students to  
14               attend a private elementary or secondary school cho-  
15               sen by the student’s parents as authorized under  
16               section 1116(b)(8)(A)(iii);

17               “(2) propose to serve eligible students in a local  
18               educational agency with a large number or percent-  
19               age of schools identified for restructuring under sec-  
20               tion 1116(b)(8);

21               “(3) possess the knowledge and capacity to in-  
22               form parents of eligible students, in urban, subur-  
23               ban, and rural areas, about public and private ele-  
24               mentary school and secondary school options; and

1           “(4) will augment the scholarships provided to  
2           eligible students under this subpart in order to help  
3           ensure that parents can afford the cost (including  
4           tuition, fees, and necessary transportation expenses)  
5           of the schools the parents choose to have their chil-  
6           dren attend under this subpart.

7           “(d) APPLICATION REQUIREMENTS.—

8           “(1) IN GENERAL.—To be considered for a  
9           grant under this subpart, an eligible entity shall sub-  
10          mit an application to the Secretary at such time, in  
11          such manner, and containing such information as  
12          the Secretary may reasonably require.

13          “(2) CONTENTS.—The application shall, at a  
14          minimum, include a description of—

15               “(A) the eligible entity’s plan for—

16                   “(i) recruiting private schools, local  
17                   educational agencies, charter schools, and  
18                   private providers to participate in the  
19                   project in order to meet eligible student de-  
20                   mand for private and public school admis-  
21                   sion and supplemental educational services;  
22                   and

23                   “(ii) ensuring that participating  
24                   schools that enroll eligible students receiv-  
25                   ing scholarships under this subpart, and

1 private providers participating in the  
2 project, will meet the applicable require-  
3 ments of the project;

4 “(B) each school identified for restruc-  
5 turing that will be served under the project, in-  
6 cluding—

7 “(i) the name of each such school; and

8 “(ii) such demographic and socio-  
9 economic information as the Secretary may  
10 require;

11 “(C) how the eligible entity will work with  
12 the identified schools and the local educational  
13 agency to identify the parents of eligible stu-  
14 dents (including through contracts or coopera-  
15 tive agreements with the public school or local  
16 educational agency) consistent with the require-  
17 ments of the Family Educational Rights and  
18 Privacy Act of 1974 (20 U.S.C. 1232g);

19 “(D) how the eligible entity will structure  
20 the project in a manner that permits eligible  
21 students to participate in the second and suc-  
22 ceeding school years of the project if the schools  
23 the eligible students attend with scholarship as-  
24 sistance under this subpart are subsequently

1 identified for restructuring under section  
2 1116(b)(8);

3 “(E) how the eligible entity will use funds  
4 received under this subpart;

5 “(F) how the eligible entity will ensure  
6 that if more eligible students seek admission to  
7 the project than the project can accommodate,  
8 the eligible students will be selected through a  
9 random selection process;

10 “(G) how the eligible entity will notify par-  
11 ents of eligible students of the expanded choice  
12 opportunities provided under the project and  
13 how the eligible entity will provide parents with  
14 sufficient information to enable the parents to  
15 make an informed decision;

16 “(H) how the eligible entity will ensure  
17 that the schools receiving eligible students  
18 under the grant are financially responsible and  
19 will use the grant funds received under this  
20 subpart effectively;

21 “(I) how the eligible entity will prioritize  
22 between providing scholarships and providing  
23 sustained, intensive supplemental educational  
24 services, including the timing and duration of

1 offering the opportunity for parents to deter-  
2 mine which provision the parents prefer; and

3 “(J) how the eligible entity will address the  
4 renewal of support for participating eligible stu-  
5 dents, including continued eligibility.

6 “(e) USES OF FUNDS.—

7 “(1) IN GENERAL.—Each eligible entity that re-  
8 ceives a grant under this subpart may—

9 “(A) reserve not more than 5 percent of  
10 the grant funds for administrative expenses, in-  
11 cluding costs associated with recruiting and se-  
12 lecting eligible students, private schools, and  
13 private providers, to participate in the project;

14 “(B) only for the first year for which grant  
15 funds are received under this subpart, reserve  
16 not more than 5 percent of the grant funds (in  
17 addition to the funds reserved under subpara-  
18 graph (A)), for initial implementation expenses,  
19 including costs associated with outreach, pro-  
20 viding information to parents and school offi-  
21 cials, and other administrative expenses;

22 “(C) use the grant funds to provide schol-  
23 arships to eligible students to pay for the cost,  
24 including tuition, fees, and necessary transpor-  
25 tation expenses to attend the private school of



1       their parents’ choice or a public elementary  
2       school or secondary school of their parents’  
3       choice outside of the eligible students’ home  
4       school district (consistent with State law), ex-  
5       cept that the scholarship shall not exceed  
6       \$4,000 per student per school year; and

7               “(D) use the grant funds to pay the costs,  
8       including reasonable transportation costs, of  
9       supplemental educational services (including  
10      summer school or after-school programs) pro-  
11      vided by a private provider to eligible students,  
12      except that the costs shall not exceed \$3,000  
13      per student per school year.

14      “(2) FUNDING ORDER.—Each eligible entity  
15      that receives a grant under this subpart shall—

16              “(A) first fund scholarships for eligible  
17      students to attend the private school of their  
18      parents’ choice or a public elementary school or  
19      secondary school of their parents’ choice outside  
20      of the eligible students’ home school district  
21      (consistent with State law); and

22              “(B) use any remaining grant funds to  
23      provide eligible students with access to supple-  
24      mental educational services.

1           “(3) PAYMENT.—Each eligible entity that re-  
2           ceives a grant under this subpart shall make scholar-  
3           ship payments under this subpart to the parent of  
4           the eligible student participating in the project, in a  
5           manner that ensures that the payments will be used  
6           only for the payment of tuition, fees, and necessary  
7           transportation expenses, in accordance with this sub-  
8           part.

9           “(f) PROHIBITION.—A student who receives supple-  
10          mental educational services under this subpart shall not  
11          be eligible to receive other such services under section  
12          1116(e).

13          “(g) PROJECT PERFORMANCE.—Each eligible entity  
14          receiving a grant under this subpart shall prepare and  
15          submit to the Secretary a final report on the results of  
16          the project assisted under this subpart that contains such  
17          information as the Secretary may require. At a minimum,  
18          the report shall include information on the academic  
19          achievement of students receiving scholarships and supple-  
20          mental educational services under the project.

21          “(h) PERFORMANCE INFORMATION.—Each eligible  
22          entity that receives a grant under this subpart shall collect  
23          and report such performance information as the Secretary  
24          may require for the national evaluation conducted under  
25          subsection (i).

1       “(i) NATIONAL EVALUATION.—From the amount  
2 made available for any fiscal year under section 1264, the  
3 Secretary shall reserve such sums as may be necessary to  
4 conduct an independent evaluation, by grant or by con-  
5 tract, of the program carried out under this subpart,  
6 which shall include an assessment of the impact of the  
7 program on student achievement. The Secretary shall re-  
8 port the results of the evaluation to the appropriate com-  
9 mittees of Congress.

10   **“SEC. 1263. NONDISCRIMINATION.**

11       “(a) IN GENERAL.—An eligible entity or a school  
12 participating in a project under this subpart shall not dis-  
13 criminate against an individual participant in, or an indi-  
14 vidual applicant to participate in, the project on the basis  
15 of race, color, religion, sex, or national origin.

16       “(b) RELIGIOUS TENETS OR BELIEFS.—Notwith-  
17 standing any other provision of law, the prohibition of sex  
18 discrimination described in subsection (a) shall not apply  
19 to a school described in subsection (a) that is operated  
20 by, supervised by, controlled by, or connected to, a reli-  
21 gious organization, to the extent that the application of  
22 subsection (a) is inconsistent with the religious tenets or  
23 beliefs of the organization.

24       “(c) SINGLE-SEX EDUCATION.—Notwithstanding the  
25 prohibition of sex discrimination in subsection (a), a par-

1 participating school may offer, and a participating parent  
2 may choose, a single-sex school, class, or activity.

3 “(d) NEUTRALITY.—Section 909 of the Education  
4 Amendments of 1972 (20 U.S.C. 1688) shall apply to this  
5 subpart.

6 “(e) CHILDREN WITH DISABILITIES.—This subpart  
7 does not affect any requirement of the Individuals with  
8 Disabilities Education Act (20 U.S.C. 1400 et seq.).

9 “(f) MATTERS OF EMPLOYMENT.—Notwithstanding  
10 subsection (a), a participating school that is operated by,  
11 supervised by, controlled by, or connected to a religious  
12 organization may exercise its right in matters of employ-  
13 ment consistent with title VII of the Civil Rights Act of  
14 1964 (42 U.S.C. 2000e–1 et seq.), including the exemp-  
15 tions in that title.

16 “(g) FIRST AMENDMENT.—Consistent with the First  
17 Amendment to the Constitution of the United States, a  
18 participating school shall not, by reason of receiving funds  
19 under this subpart, be required to—

20 “(1) change its teaching mission;

21 “(2) remove religious art, icons, scriptures, or  
22 other symbols;

23 “(3) remove religious terms or references from  
24 its name, mission statement, or other chartering or  
25 governing documents; or

1           “(4) refrain from using religion as a basis in  
2           selecting its board members.

3           “(h) RULES OF CONSTRUCTION.—For purposes of  
4 Federal law, a scholarship provided under this subpart to  
5 a student shall be considered to be assistance to the parent  
6 of the student and shall not be considered to be assistance  
7 to the school that enrolls the student. The amount of any  
8 scholarship (or other form of support for the provision of  
9 supplemental educational services) provided to a parent of  
10 an eligible student under this subpart shall not be treated  
11 as income of a parent of the eligible student for purposes  
12 of Federal tax laws or for purposes of determining eligi-  
13 bility for any other Federal program, other than the pro-  
14 gram carried out under this subpart.

15   **“SEC. 1264. AUTHORIZATION OF APPROPRIATIONS.**

16           “‘There are authorized to be appropriated to carry out  
17 this subpart \$300,000,000 for fiscal year 2008 and such  
18 sums as may be necessary for each of the 4 succeeding  
19 fiscal years.’”.

○